FORECLOSURE PREVENTION SHEET #1

STEPS IN A RESIDENTIAL ILLINOIS MORTGAGE FORECLOSURE AND APPROXIMATE TIMELINE IN AN UNOPPOSED CASE*

The following timeline is only a general guideline for an unopposed residential foreclosure case. The time frame for your case may be different.

1. Usually after the third missed payment, the loan is sent to the lender's attorney for foreclosure. The lender's attorney receives the referral package and orders a title report.

30 days later

2. The lender's attorney receives the title report and drafts the Foreclosure Complaint plus supporting documentation such as Summons, Affidavit of Publication, Lis Pendens and Affidavit as to Unknown Heirs and Legatees.

7 days later

3. The Foreclosure Complaint is filed in court and the summons is placed for service. A Lis Pendens is recorded with the Recorder of Deeds.

Within 60 days

4. The Foreclosure Complaint is served on all parties by either the Sheriff, special process server or by publication in the newspaper.

*As of 1/1/98

14 days later

5. The lender's attorney reviews the court file to verify that all parties have been served and sends notice of motion for a court date for entry of the Foreclosure Judgement.

21 days later

6. The Judgment of Foreclosure and Sale is entered in court.

7. The redemption period expires: 7 MONTHS FROM THE DATE OF SERVICE OF THE FORECLOSURE COMPLAINT, IF THE HOME IS OCCUPIED BY THE MORTGAGOR, OR 6 MONTHS FROM THE DATE OF SERVICE IF THE HOME IS NOT OCCUPIED BY THE MORTGAGOR OR 3 MONTHS FROM THE DATE THE JUDGMENT IS ENTERED, **WHICHEVER IS LATER.**

Within 7 days after the redemption period expires

8. The foreclosure sale occurs

21 days later

9. The foreclosure sale is confirmed by the court.

30 days later

10. Possession of the property by named parties expires.

45 days later

11. Eviction of the named parties from the property by the Sheriff.

And

12. Eviction of unnamed parties from property by Sheriff:

45 days later pursuant to
a. Supplemental Order of Possession **or**

120 days later pursuant to
b. Forcible Entry and Detainer.

After property is vacant

13. The foreclosure deed is recorded.

FORECLOSURE PREVENTION SHEET #2

GENERAL OPTIONS TO AVOID FORECLOSURE

1. ***Reinstatement:*** Reinstatement occurs when the loan is brought current by paying the total amount past due. You have an absolute right to fully reinstate your loan within 90 days of being served with a Complaint to Foreclose Mortgage although lenders often allow reinstatement anytime before a foreclosure sale.

2. ***Repayment Plan*:** A repayment plan is designed to reinstate the loan. It is an agreement to bring the mortgage current over time. The terms are generally a payment of ½ of the arrearage as a down payment and 1 ½ payments a month until the account is brought current. A lender will normally not accept a repayment plan after a bankruptcy.

3. ***Redemption:*** Redemption is the act of paying off the delinquent loan in full. You have the right to payoff the loan during the redemption period which, for residential property, expires 7 months from the date of service of the foreclosure complaint or 3 months from the date the judgment of foreclosure is entered, **whichever is later.** The redemption period must expire prior to a foreclosure sale. Redemption usually occurs either through a sale or a refinance of the property.

4. ***Home Sale/Short Payoff:*** You can sell your home anytime before the foreclosure is finished. A short payoff occurs when you owe more on the loan than the house is worth. A lender will usually not accept a short-payoff on a refinance.

5. ***Refinance:*** You may possibly refinance the loan if you have enough equity in your home. However, you will pay a high interest rate plus high loan charges.

6. ***Loan Modification*:** A loan modification refers to changing the terms of the delinquent mortgage. These changes may include extending the term of the mortgage, adding the delinquency to the mortgage amount or a reduction in the interest rate.

7. ***Bankruptcy:*** Filing bankruptcy will stop the foreclosure case. A Chapter 13 bankruptcy is a type of forced repayment plan. A bankruptcy can be filed anytime before a foreclosure sale. For most people, this should be the last option, not the first!

8. ***Deed-in-Lieu of Foreclosure:*** A deed in lieu of foreclosure is a voluntary transfer of the property to the lender in full satisfaction of the amount owed. By accepting the deed, the lender releases you from personal liability on the loan. Lenders will not accept a deed in lieu of foreclosure if there are other liens on the property.

FORECLOSURE PREVENTION SHEET #3

WORKOUT OPTIONS TO AVOID FORECLOSURE ON FHA-INSURED LOANS

In addition to the general options, there are a number of programs available to homeowners with FHA-insured mortgages. To qualify for any of these programs, the following criteria must be met:

- The homeowner must live in the property;
- The reason for the default must have been involuntary or beyond the homeowners control. Examples include loss of a spouse, loss of a job or an extended illness;
- Usually, the reason for the default must be over and the homeowner must be able once again to make the regular monthly mortgage payment.

To apply for any of these programs, you must call your lender and request a HUD financial package. Be specific about the type of workout that you are applying for. Be prepared to send your mortgage company the following:

- The completed package with information on each homeowner;
- A financial statement showing income and expenses;
- A hardship letter explaining the reason for the default;
- 2 years tax returns;
- 2 months bank statements;
- 2 months of pay stubs or other proof of current income.

1. ***Partial Claim Payment***: On FHA-insured loans, you may qualify to have HUD pay your lender the amount owed to bring your loan current. You would then begin making your regular monthly mortgage payment. HUD records a second mortgage against the property which usually will be paid when the house is sold or the first mortgage is refinanced.

2. ***Mortgage Modifications***: In the past, loan modifications on FHA-insured loans were rare because the process was difficult. As of July 1, 1996 the rules were relaxed which now allows for greater use of this tool. Although a mortgage may be modified in many ways, the most common are 1) a reduction of the interest rate, an extension of the term of the mortgage and 3) adding the arrearage to the principal balance.

3. ***Streamline Refinance***: If your loan is only 1 or 2 months behind, you may qualify for a streamline refinance. What is streamlined about the process is the application and loan approval since your lender already has much of the information in your file to evaluate this option.

4. ***Pre-Foreclosure Sale***: If you meet certain criteria, HUD will allow you to sell your home even if more is owed on the loan than the house is worth. To qualify, the appraised value of the house must be at least 70% of the unpaid principal balance, you must sell the house for at least 95% of the appraised value and HUD must receive at least 87% of the appraised value to payoff the loan.

FORECLOSURE PREVENTION SHEET #4

BEWARE OF SCAMS

After a foreclosure case is filed, you will receive many letters from all types of people offering to "help" you avoid foreclosure. Beware. Remember if it sounds too good to be true, it probably is!

- Do not sign a deed to your house without checking with a lawyer.
- Do not sign any papers you do not understand.
- Check with a lawyer or your mortgage company before entering into any deal involving your home.

1. ***Refinance***: To refinance your home, you must have about 30% equity in your home. If you owe about as much as your house is worth, you will not be able to refinance. Refinance of loans in foreclosure or bankruptcy normally have high interest rates (12% or more) and high costs (3 points or more). As a result, the new mortgage payment is often very high and results in another foreclosure case after you cannot make the payments on the refinanced loan.

2. ***Bankruptcy***: Bankruptcy will stop the foreclosure case. A Chapter 7 bankruptcy will eliminate your debts but you will lose your house. A Chapter 13 bankruptcy is a type of repayment plan. Generally, in a Chapter 13 bankruptcy, you must make your current monthly mortgage payment plus make a payment towards the amount that you are behind on your mortgage. You must bring your loan current in about 24 months. It has been said that of the Chapter 13 bankruptcy plans that are approved, about 2/3 fail. So be realistic about whether a bankruptcy will save your home. You may end up just throwing good money after bad.

3. ***Reverse Mortgages***: Reverse mortgages are not inherently bad so long as you understand them. A reverse mortgage is a loan on your home that you do not repay. Generally, the amount owed continues to increase until the house is sold. To qualify for a reverse mortgage, the youngest homeowner must be at least 62 years old and live in the home. The amount of the loan is based on 3 criteria: 1) The age of the youngest homeowner, 2) the value of the home and 3) current interest rates. These loans are insured by HUD and often have high costs.

4. ***Buy Back Agreements***: If you have equity in your house, equity skimmers will offer to bring your loan current or payoff your loan if you give them a deed to your house. You then make payments to the new owner and you may be able to buy back your house within two years. The equity skimmer will demand a high interest rate on the payments you make plus a large additional sum if you want to repurchase your house. After you transfer ownership, you are a tenant in your house and subject to eviction if you do not make the payments to the equity skimmer.

5. ***High Loan-to-Value Loans:*** Right now, there are a handful of mortgage companies that are loaning 135% of the value of the house and one that is loaning 150%! These loans are very risky and not available to homeowners in foreclosure or bankruptcy anyway.

FORECLOSURE PREVENTION SHEET #5

COMMON QUESTIONS ABOUT FORECLOSURE

1. ***I don't want to lose my house. What can I do?***: The single most important action you can take is to call your mortgage company. Lenders lose money on every delinquent mortgage but they lose the most money on a delinquent loan that is foreclosed. Your lender does not want to foreclose your delinquent loan if there is any way to avoid it. You have options. If your lender is not cooperative, get credible advice from a housing counselor or attorney.

2. ***When do I need to move?***: By law, the homeowner has the right to live in the house for up to 30 days after a foreclosure sale is confirmed in court by a judge. This is the last stage in the foreclosure process and usually would occur about 10 months or more after the case is filed. The Sheriff cannot evict you without a court order.

3. ***How much time do I have to bring my loan current?***: By law you have the right to bring your loan current within 90 days of being served with the foreclosure complaint. Although not required by law, many lenders will allow you to reinstate your loan at any time before a foreclosure sale. Illinois law provides that a loan cannot be reinstated more than once in five years although many lenders do not adhere to this.

4. ***Can I still sell my house?***: You have the right to sell your house anytime during the foreclosure. This may be possible even if more is owed on the loan than the house is worth.

5. ***Do I need to go to court?***: Yes! You need to take action to protect your rights. There are many deadlines that you will not be aware of if you fail to inform yourself. Plus, your failure to go to court will be viewed poorly by the judge if you later want more time to move or sell your home.